

**THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PEABODY MIDWEST MINING, LLC )  
AND MICHAEL BUTLER, )  
EMPLOYED BY PEABODY )  
MIDWEST MINING, LLC )

Petitioners, )

v. )

SECRETARY OF LABOR, MINE )  
SAFETY AND HEALTH )  
ADMINISTRATION (MSHA) AND )  
FEDERAL MINE SAFETY AND )  
HEALTH REVIEW COMMISSION, )

Respondents. )

Docket No. 22-1242

**STATEMENT OF INTENT WITH RESPECT TO DEFERRED APPENDIX**

The Petitioners do not intend to use a deferred appendix in this case.

Respectfully submitted,

s/ Ralph Henry Moore, II

Ralph Henry Moore, II

Patrick W. Dennison

Fisher Phillips, LLP

6 PPG Place, Suite 830

Pittsburgh, PA 15222

[hmoore@fisherphillips.com](mailto:hmoore@fisherphillips.com)

[pdennison@fisherphillips.com](mailto:pdennison@fisherphillips.com)

Counsel for

Peabody Midwest Mining, LLC and  
Michael Butler, employed by Peabody  
Midwest Mining, LLC

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Statement of Intent with Respect to Deferred Appendix was served upon the following parties on the 6th day of October, 2022 via electronic filing:

Sarah Stewart  
Deputy General Counsel  
Federal Mine Safety and Health Review Commission  
1331 Pennsylvania Ave., NW, Suite 520N  
Washington, DC 20004-1710  
[sstewart@fmshrc.gov](mailto:sstewart@fmshrc.gov)

Emily Toler Scott, Esq.  
Office of the Solicitor  
Division of Mine Safety & Health  
201 12th Street South, Suite 401  
Arlington, VA 22202  
[scott.emily.t@dol.gov](mailto:scott.emily.t@dol.gov)

Susannah Maltz  
Attorney  
Office of the Solicitor  
Division of Mine Safety and Health  
U.S. Department of Labor  
201 12th Street South – Suite 401  
Arlington, VA 22202-5450  
[Maltz.susannah.m@dol.gov](mailto:Maltz.susannah.m@dol.gov)

s/ R. Henry Moore, II